S.B.CIVIL TRANSFER PETITION NO.9/2006

Smt. Rajshree.
vs.
Ajeet Nayar.

DATE OF ORDER ::: 18.7.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. ML Khatri, for the petitioner.
Mr. Kushal Goyal, for the respondent.

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Heard learned counsel for the parties.

The petitioner, wife of respondent, has moved this petition for transfer of the Petition No.340/2005 filed by the respondent under Section 9 of the Hindu Marriage Act and which is pending in the Family Court, Jodhpur.

According to the petitioner, she has filed a divorce petition which is pending in the Court at Barmer. She has also filed a criminal case against the respondent under Section 498A IPC which is also pending at Barmer. The petitioner also submitted that she is residing at Barmer whereas the respondent has filed the petition under Section 9 of the Hindu Marriage Act at Jodhpur. It is submitted that the petitioner is a young lady and she cannot come and attend the court proceedings at Jodhpur whereas the

respondent is attending the proceedings at Barmer Court. Therefore, it is prayed that the petition filed by the respondent be transferred to the Court at Barmer.

Learned counsel for the respondent vehemently submitted that the petitioner has launched absolutely false case against the respondent. It is also submitted that the arguments on framing of charge and the respondent is hopeful that he may be discharged. It is also submitted that there is no reason for transfer of petition filed by petitioner at Barmer. It is also submitted that this transfer petition has been filed to harass the respondent.

I have considered the rival submissions and perused the facts of the case.

Undisputedly, the petition filed by the petitioner is at Barmer and it will be just and proper to hear the divorce petition as well as the petition under Section 9 of the Hindu Marriage Act by the same Court. Since the respondent will have to contest the case at Barmer, therefore, it will be just and proper to transfer the petition filed by the respondent to the Court at Barmer, looking to all other facts also.

In view of the above, this transfer petition is allowed, the Petition no.340/2005 (Ajeet Nayar vs. Smt. Rajshree) filed by the respondent under Section 9 of the

Hindu Marriage Act pending in the Family Court, Jodhpur is hereby withdrawn and is transferred to the Court of Additional District Judge, Barmer for deciding the same in accordance with law.

Both the parties are directed to remain present before the Court of Additional District Judge, Barmer on 21.8.2006.

(PRAKASH TATIA), J.

S.Phophaliya